

ABCs of Financial Institutions in Utah:

From **A**PR to Reg **Z** with a stop at
Payday lending along the way



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Labor Interim Committee

Office of Legislative Research and General Counsel

September 19, 2007

Today's Discussion

About the industries

Backdrop of federal issues

Current issues

About the Industries



I ndustries

Key Types

- Depository
 - Bank
 - Credit Union
 - Industrial Bank
 - Savings and Loan Association
- Nondepository
 - Consumer Lending
 - Mortgage Lending (DFI/DRE)
 - Holding Company
 - Trust Company
 - Money Transmitter
 - Escrow Agent
 - Check Cashier (payday lender)
 - Title Lender

Key Regulators

- Federal
 - Federal Reserve
 - FDIC
 - OCC
 - NCUA
 - OTS
 - Others
- State
 - Department of Financial Institutions (DFI)
 - Others

Consumers

Industries

Key Types

- Depository
 - Bank
 - Credit Union
 - Industrial Bank
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State or Federal Charter

Regulators

- Federal
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 - FDIC
 - OCC
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 - Others
- State
 - Department of Financial Institutions (DFI)
 - Others

Consumers

Industry

Key Types

- Depository Institutions
 - Banks
 - Credit Unions
 - Industrial Banks
 - Savings and Loans
- Non-Depository Institutions
 - Commercial Banks
 - Money Market Funds
 - Hedge Funds
 - Trust Funds
 - Mutual Funds
 - Equity Funds
 - Commodity Funds
 - Tax Funds

Depository Institutions

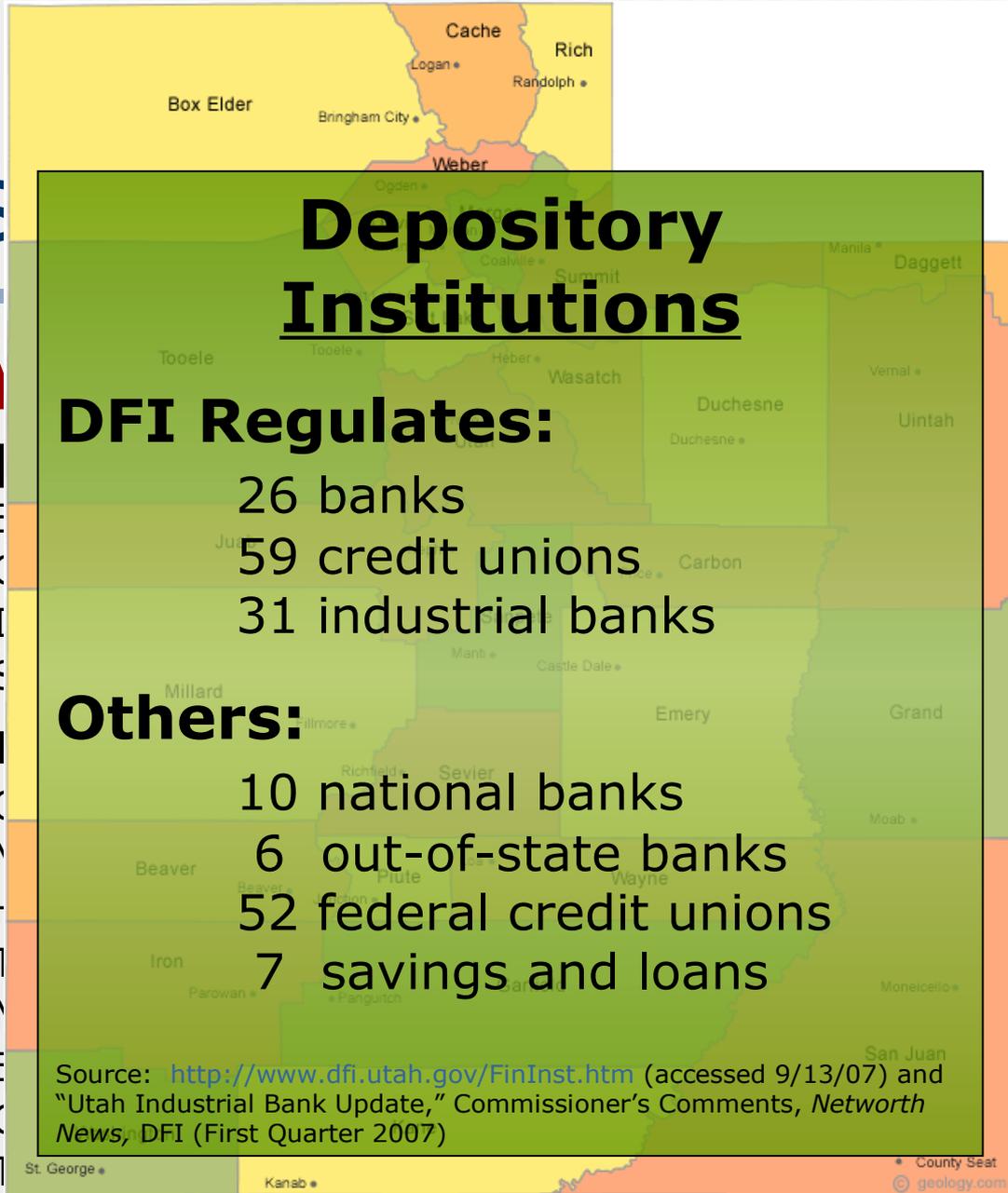
DFI Regulates:

- 26 banks
- 59 credit unions
- 31 industrial banks

Others:

- 10 national banks
- 6 out-of-state banks
- 52 federal credit unions
- 7 savings and loans

Source: <http://www.dfi.utah.gov/FinInst.htm> (accessed 9/13/07) and "Utah Industrial Bank Update," Commissioner's Comments, *Network News*, DFI (First Quarter 2007)



Regulators

Reserve

Department of Financial Institutions (DFI)

I ndustries

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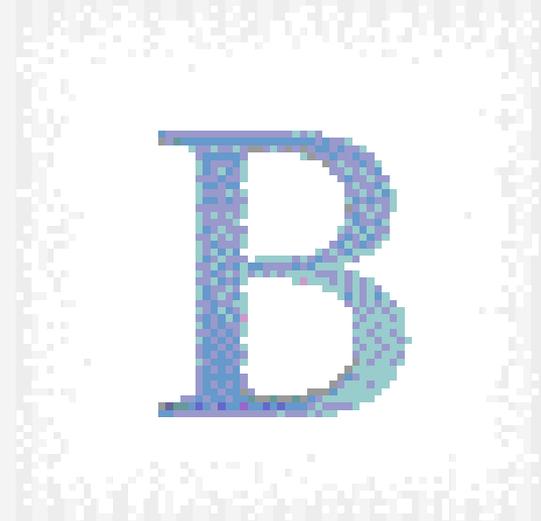
Examinations
"Safety & Soundness"

- NCUA
- OTS
- Others

More Traditional
Regulatory Approaches

Consumers

Backdrop of Federal Issues



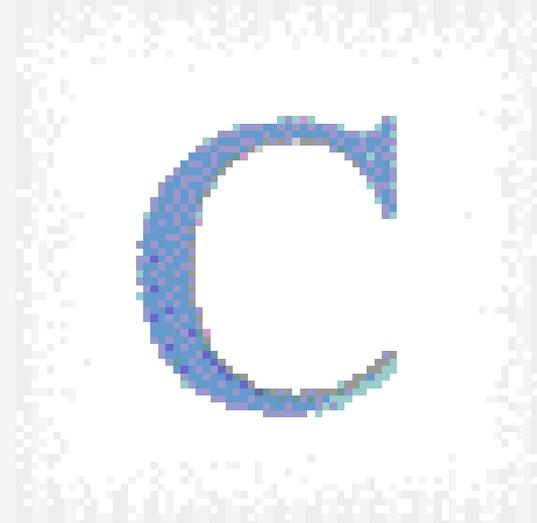
Federal Issues

Dual Banking

Preemption

Other

Current Issues



Payday Lending

Background

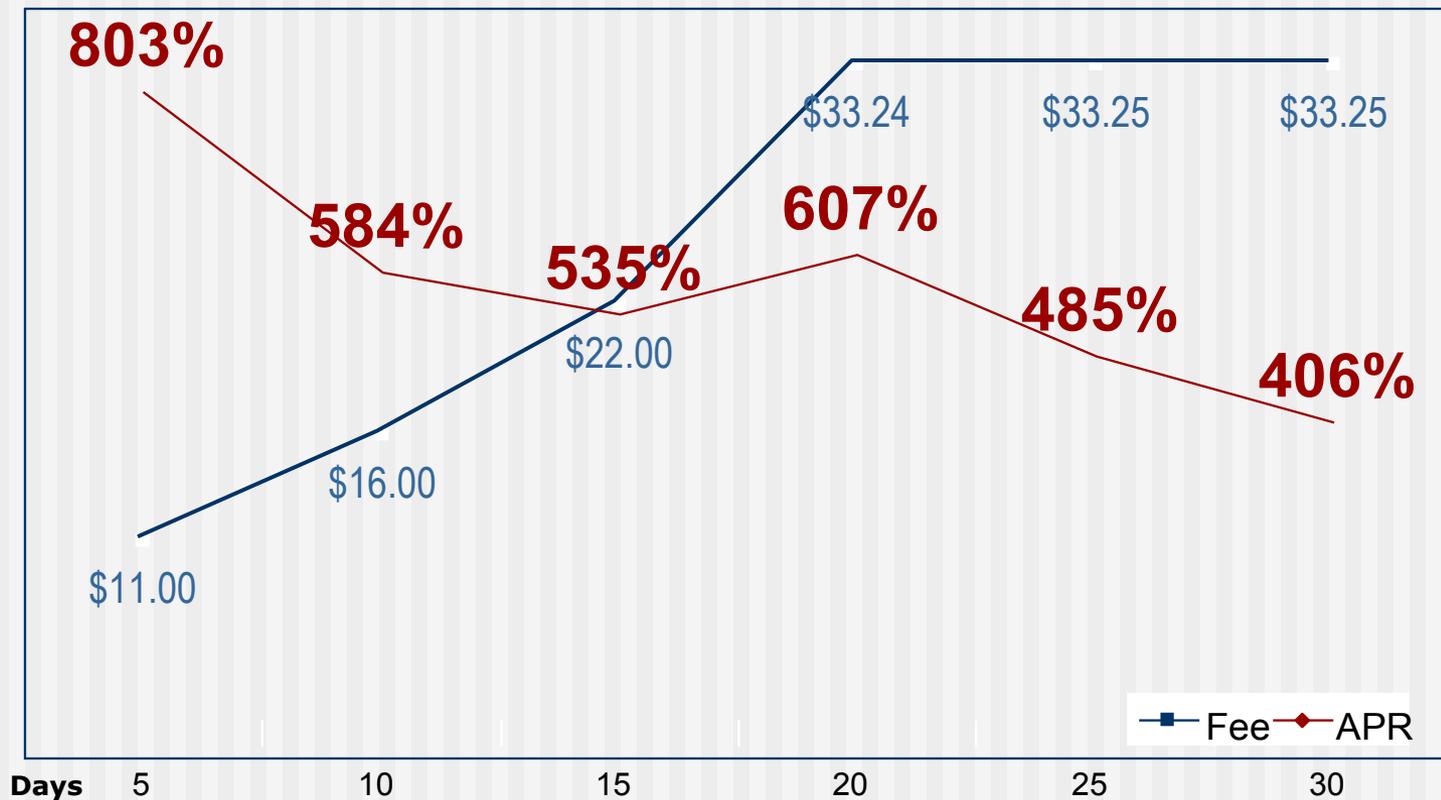
- Different names
 - Basic concept of lending based on the lender's deferred right to access the borrower's money
- Utah's definition
 - "Deferred deposit loan" means:
 - a person presents a check or provides authorization to debit that person's account using an electronic payment
 - the lender provides the person an amount of money equal to the face value of the check or debit less any fee or interest charged and agrees not to cash the check or process the debit until a specific date

See Utah Code Ann. § 7-23-102

Payday Lending

Background

Example Fees and APR per \$100 Loan



Payday Lending

Background

	Late Fee	“Bad” Check Fee
Qwest	1.2% of balance > \$25 per bill after 10 day grace period	\$15
Questar	1% of balance per monthly billing	\$20
Rocky Mountain	1% of balance per monthly billing	\$20

	“Bad” Check Fee
Zions Bank	\$23 flat fee
Deseret First Credit Union	\$22 flat fee

Payday Lending

Background

- Growth nationally
 - Approximately 300 in 1992 to now >20,000
http://www.cfsa.net/about_payday_advance.html (4/26/07), & Payday Lending and Public Policy: What Elected Officials Should Know, Indiana Wesleyan U. (8/06)
- In US approximately \$40B extended
http://www.cfsa.net/about_payday_advance.html (4/26/07)
- Storefront locations v. Internet
 - “Internet search engines identify about 3,000 web sites delivering payday loans online, either directly to the consumer or by generating leads for Internet lenders”
CFSA http://www.cfsa.net/state_legislation.html (4/26/07)
- Degree of profitability debated

Payday Lending

Background

Utah Average
1 payday lender
for 6,906 in pop.

Counties with
1 payday lender
for pop. < 6,000

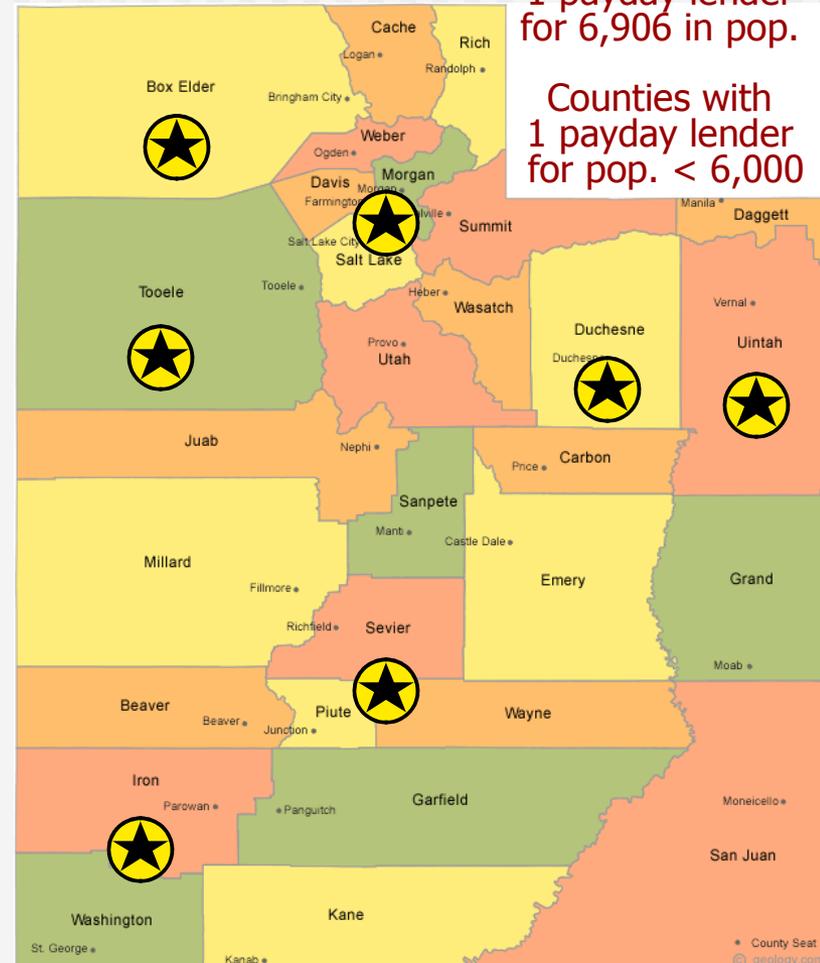
Total Registered
186

Payday Lenders
168

(18 check cashing only
354 locations)

Internet Lenders
79

(27 based in Utah)

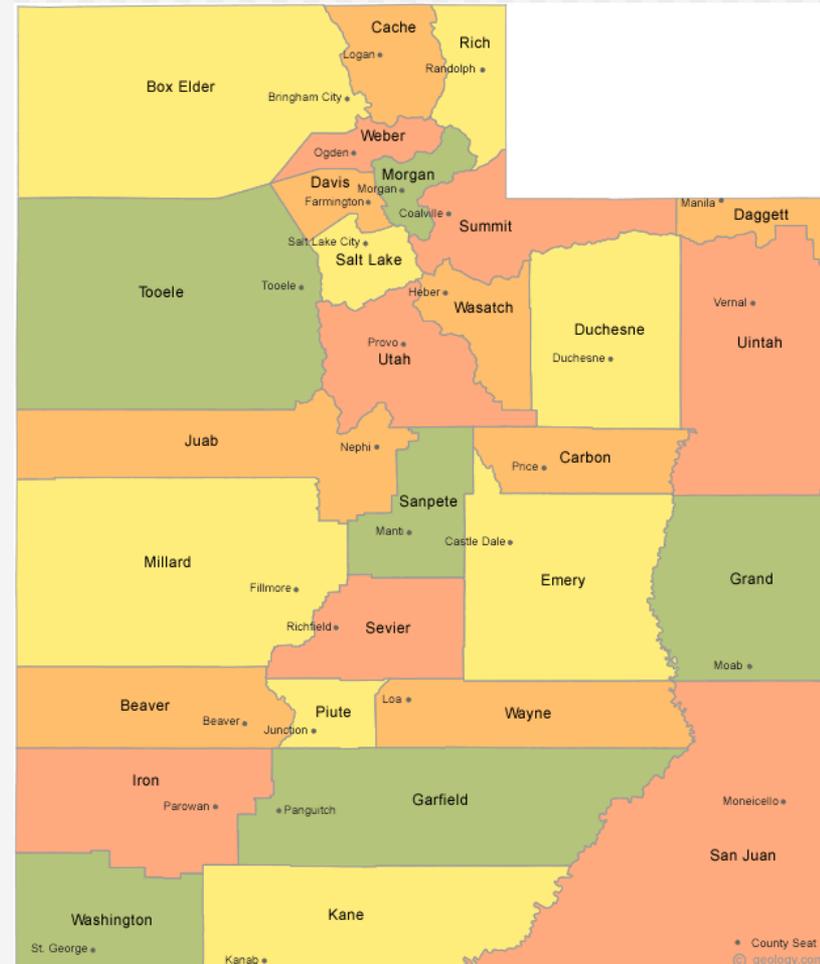


Payday Lending

Background

Written Complaints

YR	Total	Internet Based	Nonresident Internet Based
01	4		
02	5		
03	9		
04	23		
05	52	23	18
06	39	32	27



Source: DFI to OLRGC (5/11/07)

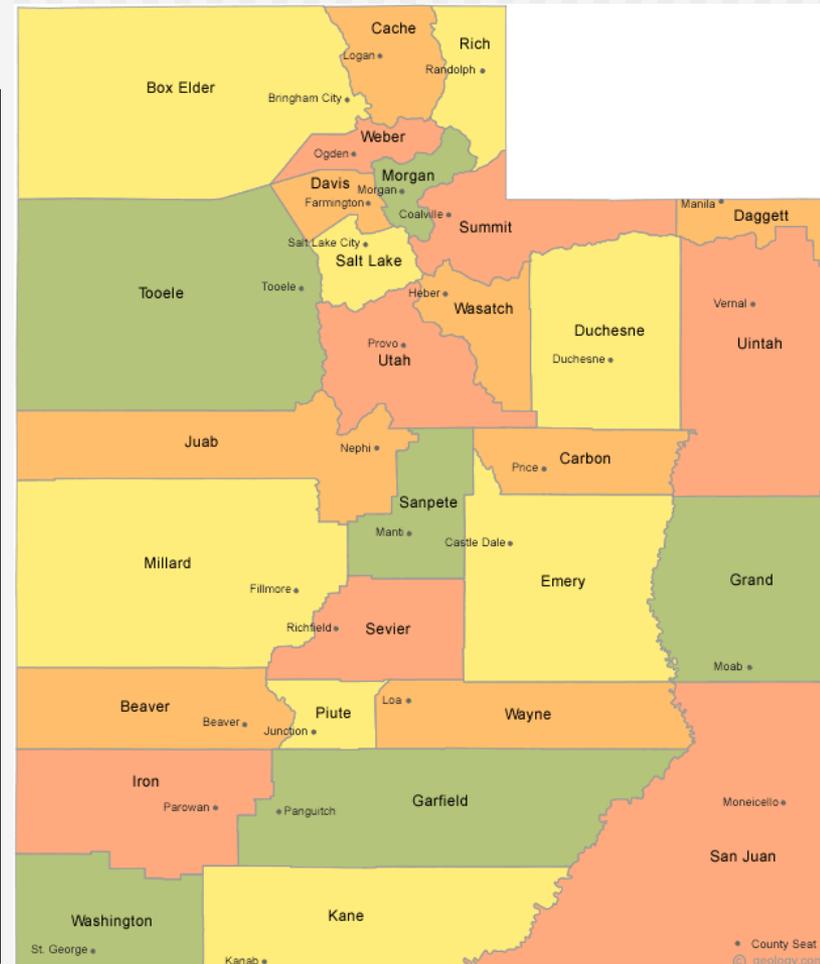
Prepared by the Office of Legislative Research and General Counsel (9/19/07)

Payday Lending

Background

2006 Examinations

	In Compliance
APR in oral response	77%
Weekly rate avoided in oral response	94%
APR accurate in written disclosure	94%
Display fee schedule	91%
DFI phone # posted	95%



Source: DFI to OLRGC (5/11/07)

Prepared by the Office of Legislative Research and General Counsel (9/19/07)

Payday Lending

Background

	CFSA Website*	CFA Website‡
Frequency	70-80% use loans between once a year and once a month	91% of loans to debtor with ≥ 5 loans per year Ave of 8 to 13 loans per year at one lender
Amount	\$100 to \$500	\$100 to \$1,000
Interest/Fees	Typical \$15 per \$100	\$15 to \$30 per \$100

* Community Financial Services Association of America, http://www.cfsa.net/myth_vs_reality.html#3 (4/26/07) citing Credit Research Center, Payday Advance Credit in America: An Analysis of Customer Demand (4/01) or otherwise obtained from CFSA's website citing Payday Lending and Public Policy: What Elected Officials Should Know, Indiana Wesleyan University (8/06)

‡ Consumer Federation of America, <http://www.paydayloaninfo.org/facts.cfm> (4/27/07) or otherwise obtained from CFA Website citing Financial Quicksand, Center for Responsible Lending (11/06)

Payday Lending

Background

	CFSA Website*	CO Law Review‡
Income	\$25K to \$50K annual	\$2,373 ave monthly gross (approx \$28,476 annual)
Age	68% under 45 4% over 65	Ave age approx. 35.8 62.41% between 20-39 1.67% are 65 or over
Education or Profession	94% high school grad 56% some college	62.80% of borrowers are laborers, officer workers, or benefits recipients
Family Status	Majority married 64% have children	52.67% single 47.33% married

* Community Financial Services Association of America, http://www.cfsa.net/myth_vs_reality.html#3 (4/26/07) citing Credit Research Center, Payday Advance Credit in America: An Analysis of Customer Demand (4/01)

‡ Colorado Information, Borrowing from Peter to Pay Paul: A Statistical Analysis of Colorado's Deferred Deposit Loan Act, Denver University, 83 Denv. U.L. Rev. 387 (2005)

Payday Lending

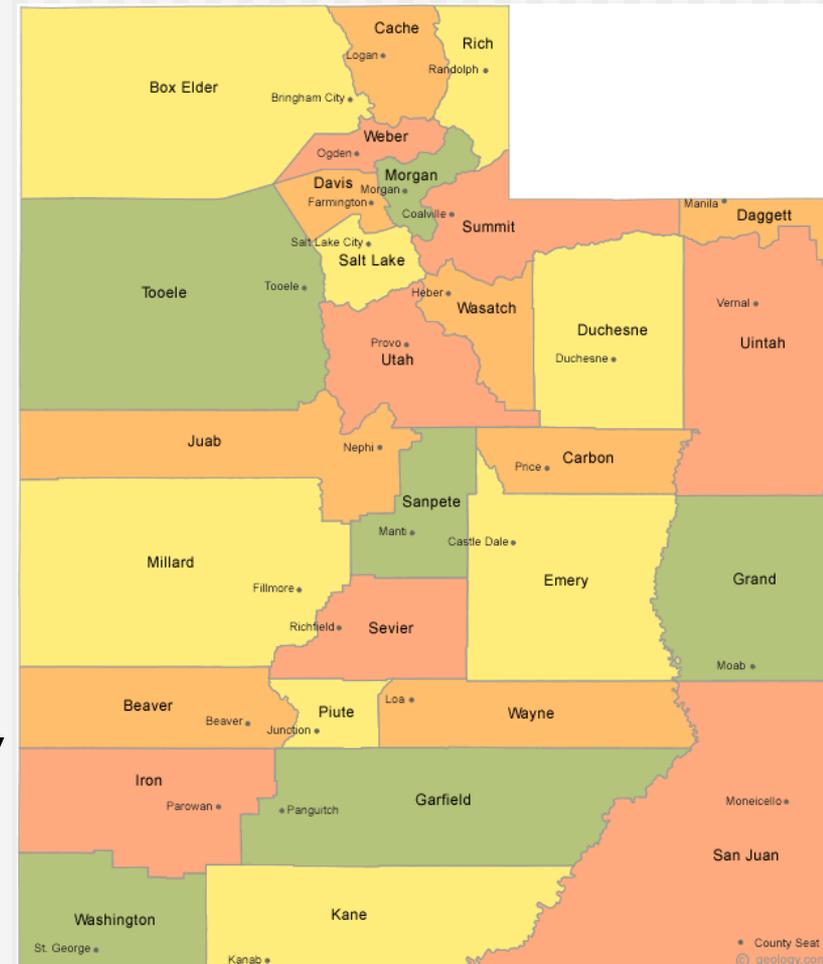
Background

In 2005 UT registered payday lenders charged off > 41,000 loans (DFI indicated an industry est. of 17 to 20%)

DFI est. approx 80% roll over once while < 20% roll over for 12 weeks (Issue of beginning/end of a loan)

DFI est. typical amount is < \$500, APR ranges 400-550%, 2 week term

Several offer products like title loans, traveler checks, money orders, and wire transmission services



Payday Lending

Utah Law

- Annual registration with DFI
 - **Fees:** Original: \$300, Annual: \$200, Examination: \$55 per hour
 - **Provide basic information:** Name(s), address(es), designated agent, if no office in UT, how it operates, criminal and administrative information
 - **Fine** for failure to register
- Operational Requirements
 - **Initiating the payday loan:** Postings, disclosures, written contract, oral review, certain federal laws
 - **Examples of other requirements:** Allow partial payments, allow rescission next business day, limit rollovers, not threaten criminal process, process electronic payments in timely manner

Payday Lending

Utah Law

- Enforcement
 - **Examples of DFI powers include:** Receive and act on complaints, commence administrative/judicial actions, counsel persons on rights and duties, make rules, annual examinations
- Penalties
 - Class B misdemeanor
 - Revocation of registration
 - Cease & desist/prohibit engaging in business
 - Fines

Payday Lending

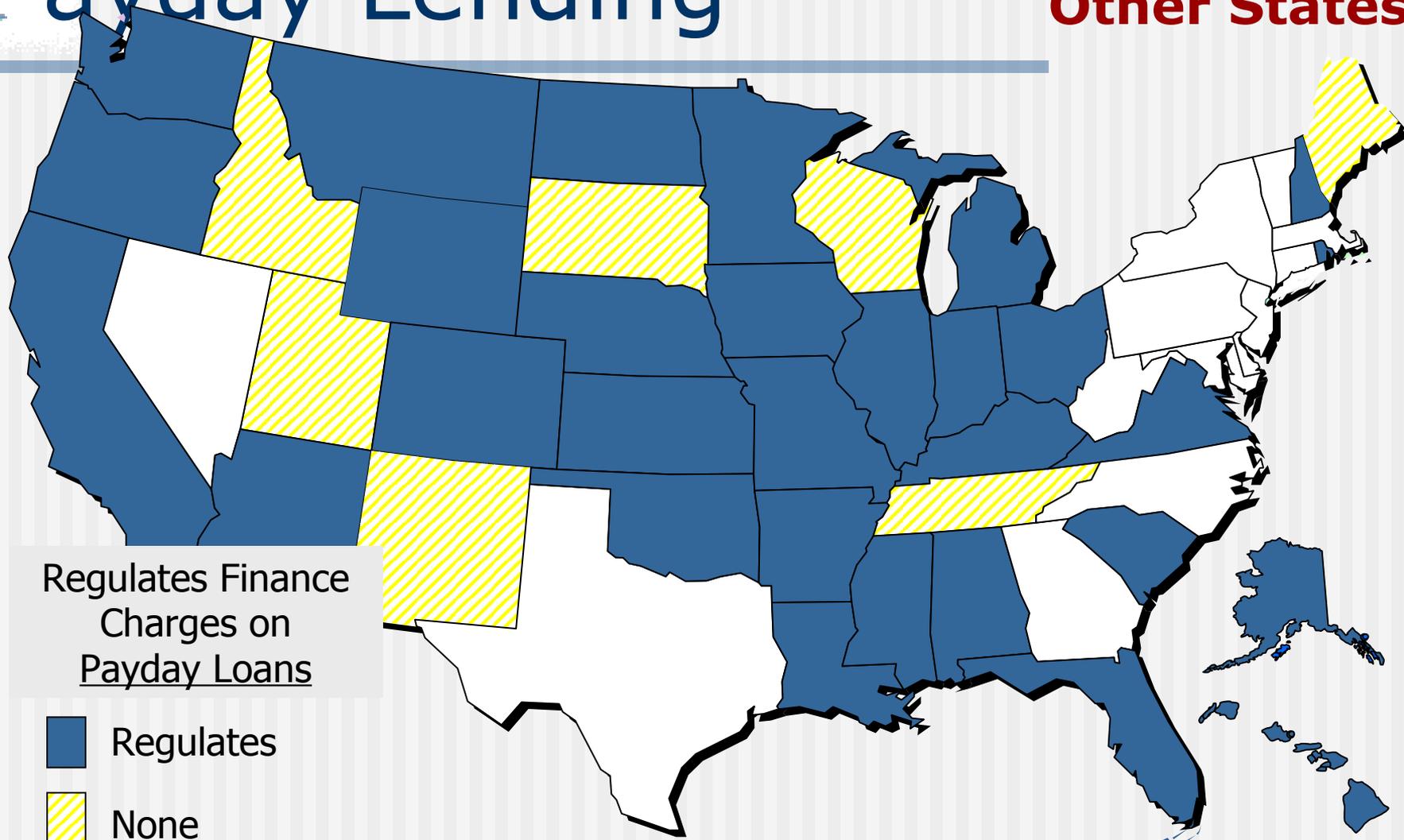
Other States

Review of existing state surveys

- Spectrum of regulation
- Examples of provisions include:
 - Maximum loan amount
 - Loan term maximum/minimum
 - Finance charges
 - Limiting rollovers/refinancing
 - Posting
 - Disclosures
 - Written contract
 - Others

Payday Lending

Other States



Regulates Finance
Charges on
Payday Loans

■ Regulates

■ None

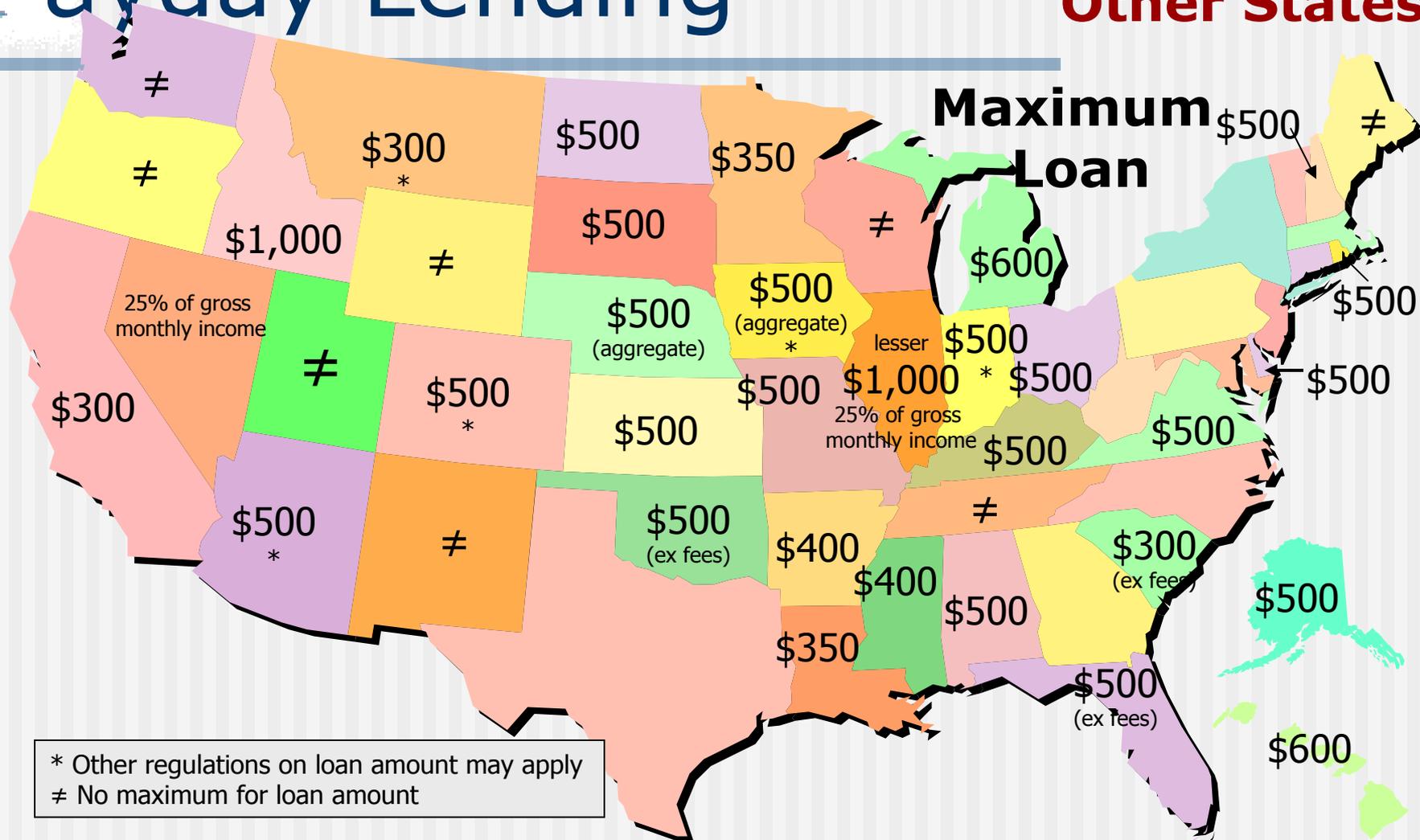
States that do not have specific payday lending statutes and/or require lenders to comply with interest rate caps on consumer loans: CT, MD, MA, NJ, NY, NC, PA, TX, VT, WV.

Source: NCSL, Current State Laws (3//21/07) <http://www.ncsl.org/programs/banking/PaydayLend-Intro.htm> (5/3/07)

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Payday Lending

Other States



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Payday Lending

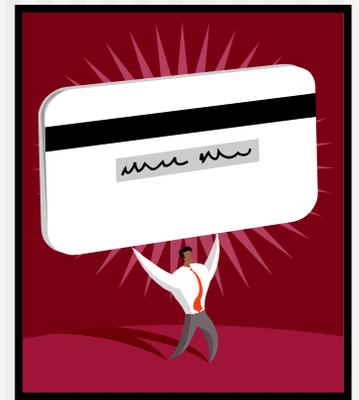
Military

John Warner National Defense Authorization Act for Fiscal Year 2007 & Dept. of Defense Rules

(Rule proposed/comments requested 4/11/07)

- Examples of key elements
 - Restrictions on interest include 36% APR cap
 - Mandatory disclosures
 - Limitations on certain loan provisions
 - Penalties and remedies
 - Preemption of state laws
- Applying the 36% APR cap
 - “Military annual percentage rate” (MAPR): Other than using this list of costs, calculated in accordance with Truth-in-Lending

I ndustrial Banks



- What is an industrial bank?
 - Owner not subject to Bank Holding Company Act or Glass Steagall Act
 - May extend consumer and commercial loans and accept federally insured deposits, but may not accept demand deposits if its total assets > \$100M
 - Subject to same regulatory oversight as a Utah-chartered commercial bank
- “[H]ighest concentration of IB’s in the nation”
 - Other states include CA, CO, IN, HI, MN, NV
- FDIC Moratorium and congressional interest

Mortgage Lending



- Split regulation between DFI and Division of Real Estate (DRE)
 - DRE is primary regulator of most residential first mortgage lenders and brokers
 - DFI regulates:
 - 2nd mortgage lenders
 - 1st mortgage servicers
 - Depositories or affiliates engaging in 1st mortgage brokering and/or lending
- Current concerns about sub prime lending
 - National trends v. Utah trends

Questions

